

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, INC., a Delaware corporation; AMAZON.COM SERVICES LLC, a Delaware limited liability company; and THE ERGO BABY CARRIER, INC., a Hawaii corporation,

Plaintiffs,

V.

MICHAEL BARTLEY, an individual; JEAN BATALIEN, an individual; RACHEL DIEKMANN, an individual; HAZEL FLORES, an individual d/b/a Webox.com Prep Center; NAMDIDIE IKON, an individual; JUSTIN RALEY, an individual; SEBASTIAN GONZALEZ ROJAS, an individual; KATHRYN SPOSATO, an individual; JEAN ST. VIL, an individual; MICHAEL SUTTON, an individual; and DOES 1-10,

Defendants.

Plaintiffs Amazon.com, Inc., Amazon.com Services LLC (collectively, "Amazon"), and

The Ergo Baby Carrier, Inc. ("Ergo Baby" and together with Amazon, "Plaintiffs") and

Defendants Jean Batalien ("Batalien"), Hazel Flores ("Flores"), Namdidie Ikon ("Ikon"), Jean St.

Vil (“St. Vil”), Michael Sutton (“Sutton”), Rachel Diekmann (a/k/a Rachel Winchester)

(“Winchester”), and Michael Bartley (“Bartley”) submit this Joint Status Report and Discovery

1 Plan (“Joint Status Report”), pursuant to the Court’s October 16, 2024 Order Regarding Initial
 2 Disclosures, Joint Status Report, and Early Settlement (Dkt. 29), as follows:¹

3 **1. Statement of the Nature and Complexity of the Case.**

4 **Amazon’s Statement:** This case involves Plaintiffs’ claims against Defendants arising
 5 from their advertisement, marketing, distribution, and sale of counterfeit Ergobaby-branded
 6 products in the Amazon.com store in violation of Plaintiffs’ rights. Plaintiffs jointly bring this
 7 suit against Defendants² to permanently prevent and enjoin Defendants from causing future harm
 8 to Amazon, Ergobaby, and their customers, and to hold Defendants accountable for their illegal
 9 actions.

10 Defendants are a collection of individuals and entities who conspired and operated in
 11 concert with each other to engage in the counterfeiting scheme alleged in the Complaint.

12 Defendants are the individuals who operated, controlled, and/or were responsible for the selling
 13 accounts detailed in Schedule 1 attached to the Complaint. Plaintiffs bring claims for trademark
 14 counterfeiting and trademark infringement, false designation of origin and false advertising,
 15 violation of the Washington Consumer Protection Act, and breach of contract. Plaintiffs seek,
 16 among other forms of relief, permanent injunctive relief, actual and statutory damages, and costs
 17 and attorneys’ fees.

19 ¹ For the reasons stated below, Plaintiffs have not been able to confer with the remaining Defendants regarding this
 20 Joint Status Report:

- 21 • Plaintiffs completed service on Defendant Kathryn Sposato (“Sposato”) on September 26, 2024. Dkt. 25.
 The Court has granted Defendant Sposato’s request for an extension of time to respond to the Complaint
 and retain counsel. Her response to the Complaint is due December 9, 2024. Dkt. 37. Plaintiffs have
 contacted Defendant Sposato regarding this Joint Report, but she is still seeking counsel and has not
 provided feedback or approval on this Joint Status Report.
- 23 • Plaintiffs completed service on Defendants Justin Raley (“Raley”) on September 27, 2024. Dkt. 32. His
 response to the Complaint was due on or before October 18, 2024. Defendant Raley has not yet appeared in
 this action personally or through counsel, has not filed or served an answer, and has not otherwise
 contacted Plaintiffs’ counsel to indicate his intent to participate in this litigation.
- 25 • Plaintiffs completed service on Defendant Sebastian Gonzalez Rojas (“Rojas”) on November 2, 2024. Dkt.
 40. His response to the Complaint is due on or before November 25, 2024. Defendant Rojas has not yet
 appeared in the action, but if he does, Plaintiffs propose completing the required FRCP 26(f) conference
 and exchanging FRCP 26(a) initial disclosures with him within 30 days of his appearance in the action.

27 ² As used in this Joint Status Report, “Defendants” refers to the named Defendants and Does 1-10 collectively.

1 **Defendants' Statement:** Defendants contest the factual allegations set forth in Plaintiffs'
 2 complaint and reserve the right to assert any defenses and affirmative defenses as appropriate.

3 **2. Proposed Deadline for Joining Additional Parties.**

4 February 18, 2025.

5 **3. Consent to Magistrate Judge.**

6 No.

7 **4. Discovery Plan Items From Fed R. Civ. P. 26(f)(3).**

8 **A. Initial Disclosures.**

9 Plaintiffs and Defendants Batalien, Flores, Ikon, Sutton, and Winchester have agreed to
 10 exchange their Initial Disclosures on or before November 14, 2024.³ This additional time will
 11 allow Defendants' counsel, some of whom were recently retained, additional time to confer with
 12 their clients and complete the exchange of the required information.

13 **B. Subjects, Timing, and Potential Phasing of Discovery.**

14 The parties anticipate commencing discovery on all aspects of the case, including
 15 Plaintiffs' claims and alleged damages, and Defendants' anticipated defenses, in the next 60 to
 16 90 days, depending on the success of certain now-ongoing early settlement negotiations. The
 17 parties do not anticipate the need to phase discovery in this case.

18 **C. Electronically Stored Information.**

19 The parties expect a significant amount of discovery will be in electronic form and intend
 20 to stipulate and agree to the form or forms in which electronic discovery should be produced or
 21 otherwise made available. The parties will confer in good faith to the extent any issues regarding
 22 the format for electronic discovery arise, and, if necessary, will bring issues to the attention of
 23 the Court.

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 25
 26
 27 ³ Plaintiffs and counsel for Defendant Jean St. Vil, who was recently retained, have agreed to extend the deadline for
 Mr. St. Vil's initial disclosures until December 16, 2024.

1 **D. Privilege Issues.**

2 The parties anticipate entering an agreement to govern the designation of confidential
 3 information based upon the Court's Model Stipulated Protective Order. The parties do not
 4 believe any other orders regarding confidential or proprietary information are necessary at this
 5 time, and do not anticipate any unusual or unique privilege issues.

6 **E. Proposed Limitations on Discovery.**

7 The parties do not propose any changes to the limitations on discovery.

8 **F. Need for Discovery-Related Orders.**

9 The parties anticipate entering an agreement to govern the designation of confidential
 10 information based upon the Court's Model Stipulated Protective Order.

11 **5. Local Rule 26(f)(1) Items:**

12 **A. Prompt Case Resolution.**

13 Plaintiffs have been in settlement discussions with certain Defendants and will make a
 14 good-faith effort to see if settlement can be reached at the outset of this case. To the extent
 15 certain Defendants fail to respond to the Complaint, Plaintiffs will be moving for default
 16 judgment against them on an expedited basis.

17 **B. Alternative Dispute Resolution.**

18 **Plaintiffs' Statement:** Plaintiffs understand the parties intend to have a direct settlement
 19 dialogue before involving a neutral party. The reason for this is that Plaintiffs seek detailed
 20 information from Defendants regarding the alleged scheme. This process typically involves a
 21 lengthy back-and-forth regarding Plaintiffs' data and information requests, including the
 22 provision of documents, written responses, and, potentially, a live interview. Provided that
 23 Defendants participate voluntarily and transparently, a neutral party may not be required. If the
 24 dialogue breaks down, however, involvement of a neutral party at a later time in the case may be
 25 helpful to push the case to resolution.

26 **C. Related Cases.**

27 The parties are unaware of any related cases.

1 **D. Discovery Management.**

2 LCR 26(f)(1)(D)(i) – the parties will confer, as appropriate, about the possibility of
 3 limiting depositions or exchanging documents informally.

4 LCR 26(f)(1)(D)(ii) – the parties agree to share, within five business days of receipt, any
 5 documents obtained from any third party via subpoena or other formal process.

6 LCR 26(f)(1)(D)(iii) – the parties' preference is to request case management conferences
 7 on an as-needed basis.

8 LCR 26(f)(1)(D)(iv-vi) – at this time, the parties do not request (a) the assistance of a
 9 magistrate judge for settlement purposes, (b) an abbreviated pretrial order, or (c) any other Order
 10 pursuant to LCR 16(b) and (c).

11 **E. Anticipated Discovery Sought.**

12 The parties intend to serve discovery allowed by the Federal Rules of Civil Procedure
 13 going to the claims, defenses, and damages at issue in this case. The parties will also likely serve
 14 subpoenas on third parties in connection with same.

15 **F. Phasing Motions.**

16 The parties currently do not anticipate the need to phase motions to resolve potentially
 17 dispositive issues.

18 **G. Preservation of Discoverable Information.**

19 The parties have not identified any preliminary issues relating to the preservation of
 20 discoverable information and the scope of the preservation obligation. The parties are aware of
 21 their respective obligations to preserve discoverable information.

22 **H. Privilege Issues.**

23 The parties will address the handling of privileged information in their anticipated
 24 stipulated Protective Order.

25 **I. Model Protocol for Discovery of ESI.**

26 The parties are familiar with the model protocol for ESI and do not presently believe it is
 27 necessary to enter the model protocol. The parties presently do not believe that the volume of

1 ESI will warrant entry of the model ESI agreement. If a need later arises, the parties will confer
2 in good faith. The parties have met and conferred about the preservation and discovery of
3 electronically stored evidence relevant to the issues in this action.

4 **J. Alternatives to Model Protocol.**

5 The parties presently do not believe that the volume of ESI will warrant entry of the
6 model ESI agreement. The parties will confer and agree on the appropriate format for electronic
7 documents or other ESI in view of the particular documents or information requested. The
8 parties will confer regarding any need to conduct searches via search terms.

9 **6. Discovery Completion Date.**

10 The parties propose July 15, 2025 for the discovery completion date.

11 **7. Whether the Case Should Be Bifurcated.**

12 The parties do not see a need for bifurcation at this time.

13 **8. Whether Pretrial Statements and Pretrial Order Necessary.**

14 At this time, the parties anticipate following the requirements of LCR 16 for pretrial
15 submissions and orders.

16 **9. Suggestions for Shortening or Simplifying Case.**

17 The parties agree that service by email shall be valid service in this action, provided the
18 email service is made on counsel of record for the party or the pro se defendant to whom the
19 service is directed.

20 To the extent certain Defendants fail to respond to the Complaint, Plaintiffs will be
21 moving for default judgment against them on an expedited basis.

22 The parties anticipate that summary judgment may be appropriate, depending on the
23 outcomes of their anticipated settlement dialogue and case developments during discovery.

24 No further suggestions at this time, other than noting that certain parties have begun
25 settlement discussions, which they hope will lead to early resolution of the case.

1 **10. Date the Case Will Be Ready for Trial:**

2 The parties propose January 19, 2026. The parties are mindful of the Court's statement
 3 that the case should be ready for trial in one year. The parties seek additional time to build in
 4 space for significant informal information exchange and settlement process at the outset of the
 5 case, which they would prefer to focus on at the present time rather than going straight into full-
 6 blown discovery. If the parties proceed down the path of cooperation, it will likely take several
 7 months for a full information exchange to happen. If that anticipated pathway breaks down, the
 8 parties would expect to ramp up formal discovery efforts in early 2025.

9 **11. Jury Trial.**

10 The parties request a bench trial.

11 **12. Trial Days Required.**

12 5 to 7 days.

13 **13. Counsel Contact Information.**

Plaintiffs' Counsel: Scott R. Commerson, WSBA #58085 Davis Wright Tremaine LLP 865 South Figueroa Street, Suite 2400 Los Angeles, CA 90017-2566 Tel: (213) 633-6800 Fax: (213) 633-6899 Email: scottcommerson@dwt.com	Defendant Michael Bartley's Counsel Shanece M. Dedeaux Gravis Law, PLLC 7350 Cirque Dr. W., Ste. 102 University Place, WA 98467 Tel: (253) 343-5937 Fax: (866) 419-9269 Email: sdedeaux@gravislaw.com
Defendant Jean Batalien's Counsel: Eric Menhart ⁴ Lexero Law 80 M St SE, Ste 100, Washington, DC 20003 Tel: (855) 453-9376, Ext. 101 Email: eric.menhart@lexero.com	Defendant Hazel Flores' Counsel: Paul Gerike 749 Stokes Road PO Box 2035 Medford, NJ 08055 Tel: (609) 654-7344 Fax: (609) 654-0209 Email: paul@gerikelaw.com

27 ⁴ Mr. Menhart notes that he is not Defendant Batalien's trial counsel and has not been authorized to appear in court.

<p>Defendant Namdidie Ikon's Counsel: Michael Kernan⁵ The Kernan Law Firm 9663 Santa Monica Blvd., Suite 450 Beverly Hills, CA 90210 Tel: 310 490 9777 Fax: 310 861 0503 Email: mkernan@kernanlaw.net</p>	<p>Defendant Kathryn Sposato, Pro Se: 2311 Kingston Drive Lawrence, KS 66049 Email: kathysposato5@gmail.com</p>
<p>Defendant Jean St. Vil's Counsel Sally W. Harmeling Jacob M. Knutson Jeffers, Danielson, Sonn & Aylward, P.S. 2600 Chester Kimm Road Wenatchee, WA 98801 Tel: (509) 662-3685 Fax: (509) 662-2452 Email: SallyH@JDSALaw.com Email: JacobK@JDSALaw.com</p>	<p>Defendant Michael Sutton's Counsel: Michael Kernan⁶ The Kernan Law Firm 9663 Santa Monica Blvd., Suite 450 Beverly Hills, CA 90210 Tel: 310 490 9777 Fax: 310 861 0503 Email: mkernan@kernanlaw.net</p>
<p>Defendant Rachel Winchester (f/k/a Diekmann)'s Counsel: Nicholas Ranallo Ranallo Law Office 5058 57th Avenue South Seattle, WA 98118 Tel: (831) 607-9229 Fax: (831) 533-5073 Email: nick@ranollolawoffice.com</p>	

14. **Trial Counsel and Pro Se Complications Regarding Setting Trial Date.**

15. No complications, except that Defendant Winchester will be out of the country from June 14 to July 1, 2025. Although unlikely to affect any currently contemplated trial date, counsel for Defendant Winchester discloses this unavailability on those dates out of an abundance of caution.

16. **Remaining Defendants to be Served.**

17. None.

⁵ Mr. Kernan notes that he has not formally appeared in the action because this would require him to submit a pro hac vice application. He is in contact with Plaintiffs' counsel, however. Plaintiffs have agreed to extend the time for Defendants Ikon and Sutton to respond to the Complaint, and the parties are in settlement discussion.

⁶ See footnote 5.

16. Necessity of Rule 16 Conference Prior to Issuance of Scheduling Order.

The parties do not believe a Rule 16 Conference is necessary at this time.

17. Corporate Disclosure Statement Filing Date.

Plaintiffs' Corporate Disclosure Statements were filed on August 5, 2024. Dkts. 2, 3.

DATED this 15th day of November, 2024.

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s/ Scott R. Commerson

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